



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

Address: COMMISSIONER FOR PATENTS

P.O. Box 1450

Alexandria, Virginia 22313-1450

www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/639,070	08/12/2003	Steven E. Riedl	61575.1030	6931
7590 03/25/2008				
Gazdzinski & Associates 11440 West Bernardo Court Suite 375 San Diego, CA 92127				
EXAMINER				
BANTAMOL, ANTHONY				
ART UNIT		PAPER NUMBER		
2623				
MAIL DATE		DELIVERY MODE		
03/25/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/639,070

Applicant(s)

RIEDL, STEVEN E.

Examiner

ANTHONY BANTAMOI

Art Unit

2623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 December 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-54 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-54 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SE/IB)
Paper No(s)/Mail Date 12/03/2007 and 08/08/2007
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Arguments

Applicant's arguments, see applicant's arguments, filed 12/03/2007, with respect to 1-54 have been fully considered and are persuasive. The previous rejections of claims 1-54 in the non-final office action sent out by examiner on 08/29/2007 has been withdrawn.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-13, 15-22, and 28-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Eldering US Patent 6,615,039 in view of Plotnick et al US Patent Publication 2002/0178447 (hereafter referenced as Eldering and Plotnick).

Regarding claim 1, in column 9, 1-3 Eldering discloses splice points which reads on "an indicator indicative of an event in the delivery of the programming content", Eldering does not disclose in response to a detection of the indicator, determining an audience currently receiving the programming content. Plotnick in 0105, 3-7 discloses a system that characterizes the current viewer based on current viewing information and selects appropriate advertising for the current viewer based on the characterization, also in 0089, 1-4 Plotnick discloses cue messages that indicate an advertisement opportunity (avail) decoded by the cue message decoder 404 which reads on "in

response to a detection of the indicator, determining the audience currently viewing the programming content". Therefore, would have been obvious to one of ordinary skill in the art at the time the invention was made to modify advertisement insertion system as taught by Plotnick in order to enable dynamic advertisement allocation to a targeted audience. furthermore, Eldering teaches a method of forming subgroups according to subscriber characteristics which reads on "obtaining data descriptive of at least one group of members of the audience" (column 14, lines 10-12) , also, Eldering teaches a method of inserting advertisements based on relationship which reads on "generating at least one programming segment based on data" (column 14, lines 59-67), finally, Eldering discloses a method of transmitting first presentation to the first subgroup and second presentation to the second subgroup which reads on "providing to the at least one group, the at least one programming segment in lieu of the programming content during the event" (column 13, lines 62-64).

Regarding claim 2, in column 8, 44-46 Eldering teaches a cue tone detector which reads on "the method wherein the indicator containing a message which includes the start time of event".

Regarding claim 3, in column 10, 5-8 Eldering discloses distributing advertisements as auxiliary data using any available channels which reads on "the method further comprising identifying available transmission channel in the network and "transmitting at least one programming segment over at least one available transmission channel".

Regarding claim 4, in column 9, 1-3 Eldering teaches splice points which reads on "the method wherein the event includes an advertisement break".

Regarding claim 5, in column 8, 44-46 Eldering teaches cue tone detector which reads on "the method wherein the indicator includes a digital program insertion (DPI) cue".

Regarding claim 6, in column 14, 26-28 Eldering teaches a method of inserting advertisements in one or more empty segments which reads on "the method wherein at least one programming segment comprises one or more advertisements".

Regarding claim 7, in column 7, 15-17 Eldering teaches a cable network wherein the nodes are being fed with fiber-optic cable with a two-way communication capacity, which reads on "the method wherein the network includes a two-way multi-channel delivery network".

Regarding claim 8, in column 7, 58-60 Eldering teaches an implementation of advertisement particularly applicable to a cable-based network which reads on "the method wherein the network includes a cable TV network".

Regarding claim 9, in column 9, 1-3 Eldering discloses splice points which reads on "detecting, in the program stream, a message indicating a scheduled programming segment". Eldering does not disclose in response to detection of the message, identifying one or more groups of user terminals which is currently receiving the programming stream. Plotnick in 0105, 3-7 discloses a system that characterizes the current viewer based on current viewing information and selects appropriate advertising for the current viewer based on the characterization also in 0089, 1-4 Plotnick discloses

cue messages that indicate an advertisement opportunity (avail) decoded by the cue message decoder 404 which reads on "in response to detection of the message, identifying one or more groups of user terminals which are currently receiving the programming stream". Therefore, would have been obvious to one of ordinary skill in the art at the time the invention was made to modify advertisement insertion system as taught by Plotnick in order to enable dynamic advertisement allocation to a targeted audience. Eldering in column 14, 10-12 teaches a method of forming subgroups according to subscriber characteristics which reads on "identifying one or more groups of user terminals within the set" in column 14, 59-67 Eldering teaches a method of inserting advertisements based on relationship which reads on "generating one or more data streams containing one or more alternate programming segment for substituting the scheduled programming segment" and finally in column 13, 62-64 Eldering discloses a method of transmitting first presentation to the first subgroup and second presentation to the second subgroup which reads on "providing at least one of the data stream to a selected one of the identified groups over the communications network".

Regarding claim 10, in column 14, 26-28 Eldering teaches a method of inserting advertisements in one or more empty segments which reads on "the method wherein the scheduled programming segment comprises one or more advertisements".

Regarding claim 11, in column 8, 42-44 Eldering teaches a cue tone detector which reads on "the method wherein the message includes the start time of the scheduled programming segment".

Regarding claim 12, in column 8, 42-44 Eldering teaches cue tone detector which reads on "the method wherein the message includes a DPI cue".

Regarding claim 13, in column 14, 26-28 Eldering teaches a method of inserting advertisements in one or more empty segments which reads on "the method wherein at least one of the alternate programming segments comprises one or more advertisements".

Regarding claim 15, in column 4, 35-40 Eldering teaches subgroups based on demographic segmentation which reads on "where in the one or more groups are identified by analyzing demographic data associated within the user terminal set".

Regarding claim 16, in column 7, 12-19 Eldering disclose how the increase in bandwidth/channels leads to smaller nodes which consequently leads to much smaller subgroups (which means that the subgroup is a functions of number of channels or bandwidth) which reads on "the method wherein the one or more groups are identified as a function of at least the number of available transmission channels in the network".

Regarding claim 17, in column 7, 12-19 Eldering disclose how the increase in channels leads to forming more groups and additional programming which reads on "the method wherein the one or more groups are identified also as a function of the number of additional scheduled programming expected to occur concurrently within the scheduled programming segment".

Regarding claim 18, in column 7, 12-19 Eldering disclose how the increase in channels leads to identifying more groups and additional programming which reads on "the method wherein the one or more groups are identified also as a function of the

additional programming streams expected to be delivered concurrently within the programming stream during the scheduled programming segment”.

Regarding claim 19, in column 7, lines 12-19 Eldering disclose how the increase in channels leads to forming more groups and additional programming which reads on “the method wherein the additional program streams utilize a subset of the available transmission channels”.

Regarding claim 20, in column 12, 29-33 Eldering disclose a technique where the advertisements are transmitted on a channel that is separate from the programming channel which reads on “the method further comprising determining a subset of the available transmission channels for carrying the one or more data streams”.

Regarding claim 21, in column 7, 15-17 Eldering teaches a cable network wherein the nodes are being fed fiber-optic cable with a two-way communication capacity, which reads on “the method wherein the network includes a two-way multi-channel delivery network”.

Regarding claim 22, in column 12, 7-9 Eldering discloses a cable TV network, which reads on “the method wherein the network includes a cable TV network”.

Regarding claim 28, In column 9, 1-3 Eldering discloses splice points which reads on “an indicator indicative of an event in the delivery of the programming content”, Eldering does not disclose a processing unit responsive to a detection of the indicator, for determining an audience currently receiving the programming content, data being obtained which is descriptive of at least one group of members of the audience. Plotnick in 0105, 3-7 discloses a system that characterizes the current viewer based on

current viewing information and selects appropriate advertising for the current viewer based on the characterization also in 0089, 1-4 Plotnick discloses cue messages that indicate an advertisement opportunity (avail) decoded by the cue message decoder 404 which reads on "a processing unit responsive to a detection of the indicator, for determining an audience currently receiving the programming content, data being obtained which is descriptive of at least one group of members of the audience". Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify advertisement insertion system as taught by Plotnick in order to enable dynamic advertisement allocation to a targeted audience. Eldering in column 5, 30-34 discloses a sender 301 which is a network based server configured to distribute information to a plurality of receivers via the router network and in column 2, 16 discloses creating sub groups an in column 13, 48-50 Eldering discloses providing targeted advertisement to subgroups which reads on "a server for generating at least one programming segment based at least on the data" finally, in column 13, 62-64 Eldering discloses a method of transmitting first presentation to the first subgroup and second presentation to the second subgroup which reads on "the mechanism for providing to the at least one group, the at least one programming segment in lieu of the programming content during the event".

Regarding claim 29, in column 8, 44-46 Eldering teaches a cue tone detector which reads on "the system wherein the indicator contains a message which includes a start time of the event".

Regarding claim 30, in column 10, 5-8 Eldering discloses distributing advertisements as auxiliary data using any available channels which reads on “the system wherein available transmission channel in the network are identified, the at least one programming segment being transmitted over at least one of the available transmission channels”.

Regarding claim 31, in column 9, 1-3 Eldering teaches splice points which reads on “the system wherein the event includes an advertisement break”.

Regarding claim 32, in column 8, 44-46 Eldering teaches cue tone detector which reads on “the system wherein the indicator includes a digital program insertion DPI cue”.

Regarding claim 33, in column 14, 26-28 Eldering teaches a method of inserting advertisements in one or more empty segments which reads on “the system wherein at least one programming segment comprises one or more advertisements”.

Regarding claim 34, in column 7, 15-17 Eldering teaches a cable network wherein the nodes are being fed with fiber-optic cable with a two-way communication capacity, which reads on “the system wherein the network includes a two-way multi-channel delivery network”.

Regarding claim 35, in column 7, 58-60 Eldering teaches an implementation of advertisement particularly applicable to a cable-based network which reads on “the system wherein the network includes a cable TV network”.

3. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Eldering in view of Plotnick and further in view of Hendricks et al US Patent 6,463,585 (hereafter referenced as Hendricks).

Regarding claim 14, in column 8, 44-52 Eldering teaches switching equipment that switches between two different sources. Eldering and Plotnick do not disclose directing at least one user terminal in the selected group to tune from a first transmission channel at the start of the scheduled programming segment; transmitting the at least one data stream over the second transmission channel; and directing the at least one user terminal in the selected group to re-tune to the first transmission channel at the end of the scheduled programming segment. Hendricks in column 4, 24-39 discloses an ad delivery technique that causes subscriber equipment to switch from the main program channel to an advertisement channel at the main program break which reads on "directing at least one user terminal in the selected group to tune from a first transmission channel at the start of the scheduled programming segment; transmitting the at least one data stream over the second transmission channel; and directing the at least one user terminal in the selected group to re-tune to the first transmission channel at the end of the scheduled programming segment". Because both Eldering and the Hendricks discloses a technique of advertisement delivery, it would have been obvious to one of ordinary skill in the art at the time of the invention to substitute one technique for the other to achieve a predictable result of advertisement delivery.

4. Claims 23-27, 36-40, and 42-54 are rejected under 35 U.S.C. 103 (a) as being unpatentable over Eldering in view Plotnick and further in view of Baxter et al US Patent 4,930,120 (hereafter referenced as Baxter).

Regarding claim 23, Eldering in column 9, lines 1-3 discloses splice points which reads on "detecting an indicator indicative of an advertisement segment within the programming content", Eldering does not if the indicator is detected, determining an audience currently receiving the programming content. Plotnick in 0105, 3-7 discloses a system that characterizes the current viewer based on current viewing information and selects appropriate advertising for the current viewer based on the characterization also in 0089, 1-4 Plotnick discloses cue messages that indicate an advertisement opportunity (avail) decoded by the cue message decoder 404 which reads on "if the indicator is detected, determining an audience currently receiving the programming content". Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify advertisement insertion system as taught by Plotnick in order to enable dynamic advertisement allocation to a targeted audience. Eldering in column 14, 10-12 discloses a method of forming subgroups according to subscriber characteristics which reads on "identifying one or more groups of members of the audience", Eldering in column 10, 5-8 Eldering discloses distributing advertisements as auxiliary data using any available channels which reads on "allocating one or more available channels for conveying at least one advertisement of the data streams, the number of available transmission channels allocated being a function of the number of groups". Eldering and Plotnick do not disclose channel

allocation based on the number of program channels currently being requested by the audience. Baxter in column 1, 55-63 discloses a channel allocation controller which allocates channels based on request which reads on "the number of available transmission channels allocated being a function of the number of program channels currently being requested by the audience". Tuning and transmitting indicate currently. It would have been obvious to one of ordinary skill in the art to modify the channel allocator of Eldering to include one that allocates based on request as taught by Baxter to maximize downstream. Finally, Eldering discloses a method of transmitting first presentation to the first subgroup and second presentation to the second subgroup which reads on "providing over the allocated one or more transmission channels, the at least one advertisements targeted at the selected group of members of the audience" (column 13, lines 62-64).

Regarding claim 24, in column 8, 42-44 Eldering teaches a cue tone detector which reads on "the method wherein the indicator contains a message which includes the start time of an advertising segment".

Regarding claim 25, in column 8, 42-44 Eldering teaches cue tone detector which reads on "the method wherein the indicator includes a DPI cue".

Regarding claim 26, in column 7, 15-17 Eldering teaches a cable network wherein the nodes are being fed by fiber-optic cable with a two-way communication capacity, which reads on "the method wherein the network includes a two-way multi-channel delivery network".

Regarding claim 27, in column 7, 58-60 Eldering teaches an implementation of advertisement particularly applicable to a cable-based network which reads on "the method wherein the network includes a cable TV network".

Regarding claim 36, Eldering does not disclose a module for dynamically assigning transmission channels. Baxter in column 1, 55-63 discloses a channel allocation controller which allocates channels based on request which reads on "a module for dynamically assigning transmission channels". Therefore, it would have been obvious to one of ordinary skill in the art to modify the channel allocator of Eldering to include one that allocates based on request as taught by Baxter to enhance bandwidth optimization. Eldering in column 9, 1-3 discloses splice points which reads on "a detector for detecting, in the program stream, a message indicating a scheduled programming segment", Eldering does not disclose a processing unit responsive to the detection of a message, for identifying a set of one or more terminals which is currently receiving the programming stream, one or more groups of user terminals within the set being identified. Plotnick in 0105, 3-7 discloses a system that characterizes the current viewer based on current viewing information and selects appropriate advertising for the current viewer based on the characterization also in 0089, 1-4 Plotnick discloses cue messages that indicate an advertisement opportunity (avail) decoded by the cue message decoder 404 which reads on "a processing unit responsive to the detection of the message, for identifying a set of one or more terminals which is currently receiving the programming stream, one or more groups of user terminals within the set being identified". Therefore, it would have been obvious to one of ordinary skill in the art at

the time the invention was made to modify advertisement insertion system as taught by Plotnick in order to enable dynamic advertisement allocation to a targeted audience. Eldering in column 5, 30-34 discloses a sender 301 which is a network based server configured to distribute information to a plurality of receivers via the router network and in column 2, 16 discloses creating sub groups an in column 13, 48-50 Eldering discloses providing targeted advertisement to subgroups which reads on "A server for generating one or more data streams containing one or more alternate programming segment for substituting the scheduled programming segment", Eldering discloses a method of transmitting first presentation to the first subgroup and second presentation to the second subgroup which reads on " and a mechanism for providing to the at least one data stream to a selected one of the identified groups". Eldering does not disclose sending data over dynamically assigned transmission channel to a selected one of the identified groups. Baxter in column 1, 55-63 discloses a channel allocation controller which allocates channels based on request and transmits data from source to receiver on the allocated channel which reads on "sending data over dynamically assigned transmission channel to a selected one of the identified groups". Therefore, it would have been obvious to one of ordinary skill in the art to modify the channel allocator of Eldering to include one that allocates based on request as taught by Baxter to enhance bandwidth optimization.

Regarding claim 37, in column 14, 26-28 Eldering teaches a method of inserting advertisements in one or more empty segments which reads on "the system wherein the scheduled programming segment comprises one or more advertisements".

Regarding claim 38, in column 8, 42-44 Eldering teaches a cue tone detector which reads on "the system wherein the message includes the start time of the scheduled programming segment".

Regarding claim 39, in column 8, 42-44 Eldering teaches cue tone detector which reads on "the system wherein the message includes a DPI cue".

Regarding claim 40, in column 14, 26-28 Eldering teaches a method of inserting advertisements in one or more empty segments which reads on "the system wherein at least one of the alternate programming segments comprises one or more advertisements".

Regarding claim 42, in column 4, 35-40 Eldering teaches subgroups based on demographic segmentation which reads on "the system wherein the one or more groups are identified by analyzing demographic data associated with the user terminal set".

Regarding claim 43, in column 7, 12-19 Eldering disclose how the increase in bandwidth/channels leads to smaller nodes which consequently leads to much smaller subgroups which reads on "the system wherein the one or more groups are identified as a function of available transmission channels".

Regarding claim 44, in column 7, 12-19 Eldering disclose how the increase in channels leads to forming more groups and additional programming which reads on "the system wherein the one or more groups are identified also as a function of the additional scheduled programming expected to occur concurrently within the scheduled programming segment".

Regarding claim 45, in column 7, 12-19 Eldering disclose how the increase in channels leads to identifying more groups and additional programming which reads on "the system wherein the one or more groups are identified also as a function of the additional programming streams expected to be delivered concurrently with the programming stream during the scheduled programming segment".

Regarding claim 46, in column 7, 12-19 Eldering disclose how the increase in channels leads to forming more groups and additional programming which reads on "the system wherein the additional program streams utilize a subset of the available transmission channels".

Regarding claim 47, in column 12, 29-33 Eldering disclose a technique where the advertisements are transmitted on a channel that is separate from the programming channel which reads on "the system wherein a subset of the transmission channels for carrying one or more data streams is determined".

Regarding claim 48, in column 7, 15-17 Eldering teaches a cable network wherein the nodes are being fed fiber-optic cable with a two-way communication capacity, which reads on "the system wherein the network includes a two-way multi-channel delivery network".

Regarding claim 49, in column 12, 7-9 Eldering discloses a cable TV network, which reads on "the system wherein the network includes a cable TV network".

Regarding claim 50, In column 9, 1-3 Eldering discloses splice points which reads on "a detector for detecting an indicator indicative of an advertisement segment within the programming content", Eldering does not disclose a processing un responsive

to a detection of the indicator, for determining an audience currently receiving the programming content, one or more groups of members of the audience being identified. Plotnick in 0105, 3-7 discloses a system that characterizes the current viewer based on current viewing information and selects appropriate advertising for the current viewer based on the characterization also in 0089, 1-4 Plotnick discloses cue messages that indicate an advertisement opportunity (avail) decoded by the cue message decoder 404 which reads on "a processing unit responsive to a detection of the indicator, for determining an audience currently receiving the programming content, one or more groups of members of the audience being identified". Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify advertisement insertion system as taught by Plotnick in order to enable dynamic advertisement allocation to a targeted audience. Eldering in column 5, 30-34 discloses a sender 301 which is a network based server configured to distribute information to a plurality of receivers via the router network and in column 2, 16 discloses creating sub groups an in column 13, 48-50 Eldering discloses providing targeted advertisement to subgroups which reads on "a server for allocating one or more available transmission channels allocating being a function of the number of groups" Eldering and Plotnick do not disclose channel allocation based on the number of program channels currently being requested by the audience. Baxter in column 1, 55-63 discloses a channel allocation controller which allocates channels based on request which reads on "the number of available transmission channels allocated being a function of the number of program channels currently being requested by the audience". It would have been

obvious to one of ordinary skill in the art to modify the channel allocator of Eldering to include one that allocates based on request as taught by Baxter to reduce bandwidth wastage. finally, in column 13, 62-64 Eldering discloses a method of transmitting first presentation to the first subgroup and second presentation to the second subgroup which reads on "the mechanism for providing over the allocated one or more transmission channels the at least one advertisement data stream which contains one or more advertisements targeted at a selected group of members of the audience".

Regarding claim 51, in column 8, 42-44 Eldering teaches a cue tone detector which reads on "the system wherein the indicator contains a message which includes the start time of an advertising segment".

Regarding claim 52, in column 8, 42-44 Eldering teaches cue tone detector which reads on "the system wherein the indicator includes a DPI cue".

Regarding claim 53, in column 7, 15-17 Eldering teaches a cable network wherein the nodes are being fed by fiber-optic cable with a two-way communication capacity, which reads on "the system wherein the network includes a two-way multi-channel delivery network".

Regarding claim 54, in column 7, 58-60 Eldering teaches an implementation of advertisement particularly applicable to a cable-based network which reads on "the system wherein the network includes a cable TV network".

5. Claim 41 is rejected under 35 U.S.C. 103 (a) as being unpatentable over Eldering in view Plotnick and further in view of Baxter and even further in view of Hendricks (hereafter referenced as Hendricks).

Regarding claim 41, in column 8, 44-52 Eldering teaches switching equipment that switches between two different sources. Eldering, Plotnick and Baxter do not disclose directing at least one user terminal in the selected group to tune from a first transmission channel at the start of the scheduled programming segment; transmitting the at least one data stream over the second transmission channel; and directing the at least one user terminal in the selected group to re-tune to the first transmission channel at the end of the scheduled programming segment. Hendricks in column 4, 24-39 discloses an ad delivery technique that causes subscriber equipment to switch from the main program channel to and advertisement channel at the main program break which reads on "directing at least one user terminal in the selected group to tune from a first transmission channel at the start of the scheduled programming segment; transmitting the at least one data stream over the second transmission channel; and directing the at least one user terminal in the selected group to re-tune to the first transmission channel. Regarding claim 14, in column 8, 44-52 Eldering teaches switching equipment that switches between two different sources. Eldering does not disclose directing at least one user terminal in the selected group to tune from a first transmission channel at the start of the scheduled programming segment; transmitting the at least one data stream over the second transmission channel; and directing the at least one user terminal in the selected group to re-tune to the first transmission channel at the end of the scheduled

programming segment. Hendricks in column 4, 24-39 discloses an ad delivery technique that causes subscriber equipment to switch from the main program channel to and advertisement channel at the main program break which reads on "directing at least one user terminal in the selected group to tune from a first transmission channel at the start of the scheduled programming segment; transmitting the at least one data stream over the second transmission channel; and directing the at least one user terminal in the selected group to re-tune to the first transmission channel at the end of the scheduled programming segment". Because both Eldering and the Hendricks discloses a technique of advertisement delivery, it would have been obvious to one of ordinary skill in the art at the time of the invention to substitute one technique for the other to achieve a predictable result of advertisement delivery.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ANTHONY BANTAMOI whose telephone number is (571)270-3581. The examiner can normally be reached on Monday - Friday 8-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Koenig can be reached on (571) 272 7296. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Anthony Bantamoi
Examiner
Art Un 2623

/Anthony Bantamoi/
Examiner, Art Unit 2623

/Andrew Y Koenig/
Supervisory Patent Examiner, Art Unit 2623